IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Bail Appl..No. 4540 of 2007

(CRIME NO. 125/2007 OF KANJIKUZHI POLICE STATION)

PETITIONERS/ACCUSED:

1. **KESAVAN, S/O.RAMAN, AGED 64 YEARS, MARUTHUMMOOTTIL HOUSE, PAZYAYARIKKANDOM, KANJIKKYUZHY.**
2. **SANTHA, W/O.KESAVAN, AGED 60 YEARS, MARUTHUMMOOTTIL HOUSE, PAZYAYARIKKANDOM, KANJIKKYUZHY.**

BY ADV. SRI.M.MANOJKUMAR (CHELAKKADAN).

RESPONDENTS/STATE & COMPLAINANT:

1. **STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**
2. **SUB INSPECTOR OF POLICE, KANJUKUZHY POLICE STATION.**

BY PUBLIC PROSECUTOR SRI. S.U. NAZER.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/08/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.4540 OF 2007

Dated this the 7th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners aged 64 years and 60 years respectively – spouses, are the parents-in-law of the alleged victim. The alleged victim and the daughter of the petitioners allegedly fell in love and they got married. The relatives of the son-in-law did not approve of the said marriage. Therefore, the spouses resided near the house of the parents of the girl. Three children were born in the wed-lock. Later, relationship appears to have soured. It is now alleged that the petitioners – the father and mother-in-law, had allegedly attacked the victim – their son-in-law with a dangerous weapon. The father-in-law wielded a dangerous weapon. The mother-in-law beat him also, it is alleged. A crime has been registered. The injury suffered is a grievous one. The petitioners face allegations under Secs.323 and 326

of the IPC. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The allegations raised are fanciful and do not represent the real truth. As a matter of fact, it was the son-in-law who attempted to attack his old parents-in law. The first petitioner - aged 64 years, had only tried to ward off the attack and in the course of such attempt, the son-in-law happened to suffer the grievous injury. In any view of the matter, this is not a fit case where the petitioners – an aged couple, deserve to suffer the trauma of arrest and incarceration. According to the petitioners, the weapon of offence is a toddy tapper's knife which belongs to the son-in-law who allegedly had brought the weapon to the scene of the crime. The weapon was available at the scene of the crime and there is no question of any recovery also. It is, in these circumstances, prayed that directions under Sec.438 of the Cr.P.C. may be issued in favour of the petitioners.

3. The learned Public Prosecutor does not oppose the prayer for grant of anticipatory bail and I reckon that certainly as a very fair stand taken by the learned Public Prosecutor. I am satisfied, in the facts and circumstances to which I have

made a brief reference earlier, that the petitioners are entitled to be granted anticipatory bail. Appropriate conditions can, of course, be imposed on the petitioners in the interests of a fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 14/8/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 16/8/07 and 17/8/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law

as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 14/8/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 14/8/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge